

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

CIVIL NO. 3:05CV371

HARRY A. GOODWIN,)	
)	
Petitioner,)	
)	
vs.)	ORDER
)	
WACHOVIA SECURITIES, INC.,)	
)	
Respondent.)	
)	

THIS MATTER comes now before the Court *sua sponte* upon consideration of Petitioner's application to vacate an arbitration award. (Doc. No. 1). It is well-settled that any pleading seeking affirmative relief from a federal court must contain a "statement of the grounds upon which the court's jurisdiction depends." Fed. R. Civ. P. 8(a). Petitioner's pleading lacks such a statement.

It appears to the Court that neither a federal question nor diversity jurisdiction is present in this case. First, numerous circuit courts have held that the Federal Arbitration Act does not itself grant federal jurisdiction. Smith v. Rush Retail Centers, Inc., 360 F.3d 504, 505 & n.6 (5th Cir. 2004) (citing the Second, Sixth, Seventh, Ninth, Eleventh, and the District of Columbia Circuit). Rather, "there must be an independent basis for federal jurisdiction before a district court may entertain a petition to vacate an arbitration award." Id.

Second, none of the underlying claims submitted to arbitration appear to arise under federal law (assuming without deciding that this alone would be sufficient to confer jurisdiction over a petition to vacate), cf. Med-Tel International Corp. v. Loulakis, 403 F. Supp. 2d 496 (E.D. Va. 2005).

Finally, the record evidence suggests that the parties are non-diverse (Petitioner was formerly employed by Wachovia Securities, Inc., a North Carolina corporation, in Wilson, North Carolina).

Accordingly, it is hereby **ORDERED** that Petitioner shall have ten (10) days to file an amended pleading, supporting affidavits, and otherwise demonstrate why this case should not be dismissed for lack of subject matter jurisdiction. Respondent shall then have fourteen (14) days to file a response at its election.

IT IS SO ORDERED.

Signed: January 18, 2007



Robert J. Conrad, Jr.
Chief United States District Judge
